

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Marine Polymer Technologies, Inc.

v.

Civil No. 06-cv-100-JD

HemCon, Inc.

O R D E R

Marine Polymer Technologies, Inc. moves, in limine, to bar HemCon, Inc. from presenting evidence in support of a defense that the '245 patent is invalid because one of the named inventors, Sergio Finkielsztejn, did not invent the subject matter claimed in the '245 patent. Marine Polymer contends that HemCon raised the new defense too late and that under 35 U.S.C. § 256, improper inventorship does not invalidate the patent. HemCon argues that the inventorship issue is material to its inequitable conduct defense and that the issue arose late in the case because Marine Polymer improperly withheld information from HemCon that then appeared in Vascular Solutions, Inc. v. Marine Polymer Techs., Inc., 590 F.3d 56 (1st Cir. 2009).

Based on HemCon's response, the inventorship issue is limited to HemCon's inequitable conduct defense. HemCon did not plead and is not now raising a new and separate inventorship defense under § 256. Therefore, HemCon will be allowed to

introduce evidence about inventorship only in the context of its inequitable conduct defense.

Conclusion

For the foregoing reasons, Marine Polymer's motion in limine to preclude evidence of an inventorship defense (document no. 204) is granted in part and denied in part as is more fully explained in this order.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

March 30, 2010

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